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In re Application of
Sribhashyam, et al.
Application No. 09/944,963
Filed: August 31, 2001
Docket No.: 51185.00002
For: GLITCH FREE RESET CIRCUIT

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

OFFICE OF PETITIONS

This decision is in response to the petition under 37 CFR 1.47(a), filed July 22, 2002.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed August 31, 2001 without an executed oath or declaration and naming S. Sribhashyam, D. Hoff, and K. M. Li as joint inventors. Accordingly, on January 16, 2002, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (2) an acceptable oath or declaration in compliance with 35 USC 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above. Petitioner has failed to sufficiently establish that despite diligent effort, the non-signing inventor cannot be reached or located. The declaration of Marc A. Sockol indicates a declaration was mailed to the non-signing inventor on April 26, 2002 at the non-signing inventor's last known address and that the envelope containing the declaration was returned marked "Attempted Not Known."

Where inability to reach or located a named inventor is alleged, petitioner is required to establish that diligent effort to locate the inventor and provide the inventor with a complete copy of the patent application (**specification, including claims, drawings, and oath or declaration**) was made. The declaration of

Marc A. Sockol fails to set forth details of any subsequent efforts to locate the inventor.

Any renewed petition must be supported by evidence which sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a *diligent effort* was made to locate the inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet and telephone directories should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. See, MPEP 409.03(d).

Moreover, while the petition alleges the non-inventor cannot be located at the non-signing inventor's last known address, a cursory review of the Lexis®.com EZFIND Combined Person Locator Nationwide database indicates inventor D. Hoff may have more recently resided at the following address: **3374 Washington, Court, Alameda, California 94501.**

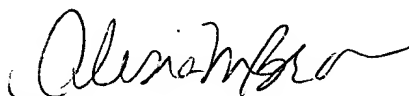
Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
Box DAC
Washington, DC 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

By hand: Crystal Plaza Four, Suite 3C23
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Telephone inquiries related to this decision may be directed to the undersigned at (703) 305-0310.



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